

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

TRISTAN BRENNAND,
Defendant.

NO. CR20-010 JLR

**STIPULATION REGARDING USE OF
VIDEOCONFERENCING DURING
PLEA HEARING; ORDER**

The parties hereby stipulate and agree as follows:

1. On January 29, 2020, a grand jury indicted defendant TRISTAN BRENNAND on one count of conspiracy to distribute controlled substances, in violation of 18 U.S.C. §§ 846, 841(a), 841(b)(1)(A), three counts of distribution of controlled substances, in violation of 18 U.S.C. §§ 841(a), 841(b)(1)(B), 841(b)(1)(C), and one count of possession of controlled substances with intent to distribute, in violation of 18 U.S.C. §§ 841(a), 841(b)(1)(A), 841(b)(1)(B), 841(b)(1)(C). The current trial date is October 19, 2020.

2. Defendant intends to plead guilty to a superseding information alleging one count of conspiracy to distribute controlled substances, in violation of 18 U.S.C. §§ 846, 841(a), and 841(b)(1)(A).

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2 3. The parties wish to hold a plea hearing in the week of October 5, 2020. The
3 parties hereby stipulate and agree that the plea hearing should occur via video conference.

4 4. On March 27, 2020, Congress passed the Coronavirus Aid, Relief and
5 Economic Security Act ("CARES Act"). The CARES Act authorized the Judicial
6 Conference of the United States and the Chief District Judges of the various Districts to
7 authorize felony change of plea hearings and sentencing hearings by video or telephonic
8 conference when (1) such hearings "cannot be conducted in person without seriously
9 jeopardizing public health and safety;" and (2) "the district judge in a particular case
10 finds for specific reasons that the plea or sentencing in that case cannot be further delayed
11 without serious harm to the interests of justice." *Id.*, Pub. L. 116-23 15002(b)(2).

12 5. On March 29, 2020, the Judicial Conference of the United States made the
13 findings required by the CARES Act, concluding that conditions due to the COVID-19
14 pandemic have materially affected and will affect the functioning of federal courts
15 generally.

16 6. Western Washington was one of the first areas impacted by the pandemic.
17 Even before the CARES Act, on March 17, 2020, Chief United States District Judge
18 Ricardo S. Martinez issued General Order 02-20 closing the Seattle and Tacoma
19 Courthouses to the public except as provided therein, and continued all civil and criminal
20 hearings and trial dates until no earlier than June 1, 2020.

21 7. In General Order 04-20, Chief Judge Martinez made the findings required
22 by the CARES Act as referenced above, and authorized the use of video conferencing or
23 telephone conferencing for felony pleas and felony sentencings, provided that the district
24 judge in a particular case finds for specific reasons that the plea or sentencing in that case
25 cannot be further delayed without serious harm to the interest of justice.

26 8. Such hearings can only be conducted if the defendant in question consents.

27 9. The findings made in General Order 04-20 have been extended, most
28 recently in General Order 13-20, filed on September 4, 2020.

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2 10. In addition to the pandemic, this Court is experiencing more general issues
3 with resources. The Western District of Washington has an authorized compliment of
4 seven full-time district court judges. However, due to retirements and judges taking
5 senior status, the District currently only has two full-time judges. This scarcity of judicial
6 resources is of course worsened by the pandemic's impact on the Court's ability to
7 conduct in-person hearings, which will inevitably result in an ever-growing backlog of
8 hearings that will otherwise not be addressed until the pandemic is sufficiently resolved
9 to allow in-person hearings.

10 11. That backlog will result in delay in scheduling change of plea hearings and
11 sentencings that threatens the interests of justice in reasonably prompt resolution of
12 criminal matters. Accordingly, where possible handling matters via video or
13 teleconference will help alleviate that backlog and avoid those adverse impacts.

14 12. Further, the defendant wishes to enter his guilty plea before the current trial
15 date of October 19, 2020 and execute the plea agreement reached with the government.
16 With the current state of the panemic, it is unclear whether an in-person hearing can be
17 safely held between now and the trial date.

18 13. For these reasons, Defendant hereby requests and consents to conducting
19 the plea hearing in this matter via video conference.

20 14. Counsel for defendant certifies that he has discussed defendant's right to be
21 change his plea in an in-person proceeding, that the defendant understands that right, and
22 that defendant has knowingly and intentionally consented to proceed with the hearing via
23 video conference.

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3 15. Based on the foregoing, the parties therefore stipulate and agree that the
4 plea hearing cannot be further delayed without serious harm to the interests of justice.

5 DATED this 1st day of October, 2020.

6 Respectfully submitted,

7 BRIAN T. MORAN
8 United States Attorney

9
10 /s/ Seungjae Lee
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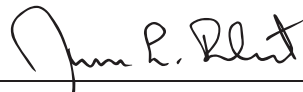
18 /s/ Jesse Cantor
19 JESSE CANTOR
20 Attorney for Defendant
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ORDER

1. The Court adopts the findings above.
2. Further, the Court specifically finds that:
 - a. The change of plea hearing in this case cannot be further delayed without serious harm to the interests of justice; and
 - b. The defendant has waived defendant's physical presence at the hearing and consents to remote hearing by video conference.

3. Therefore, based on the findings above and under the Court's authority under Section 15002(b) of the CARES Act and the General Orders issued by this court, the change of plea hearing in this matter will be conducted by video conference.

Dated this 2nd day of October, 2020.



JAMES L. ROBERT
United States District Judge